

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

HEATHER McCLANAHAN, : NO. 1:10-CV-651
Plaintiff, :
vs. : **OPINION AND ORDER**
MICHAEL J. ASTRUE, :
COMMISSIONER OF SOCIAL :
SECURITY, :
Defendant. :
:

This matter is before the Court on Plaintiff's Attorney's Motion for Attorney's Fees Under Social Security Act, 42 U.S.C. § 406(b) (doc. 25). The motion is unopposed by the Commissioner.

On November 2, 2011, the Court reversed the ALJ and awarded Plaintiff disability benefits (doc. 23). Plaintiff's attorney now seeks \$10,000.00 for his representation of Plaintiff in this matter (doc. 25). In support of this motion, Plaintiff's counsel has submitted an itemized fee statement of hours spent on this case, a copy of the contingent fee agreement between Plaintiff and counsel, and a Notice from the Social Security Administration showing Plaintiff is receiving benefits (Id.). Counsel indicates the Commissioner has withheld \$18,092.50 for payment of attorney fees from the back benefits payable to the claimant (Id.).

Fee awards in actions for past due Social Security benefits are governed by 42 U.S.C. 406(b), which limits fee awards to a reasonable amount not in excess of twenty-five percent of the

past due award. Contingent fee arrangements under this section must be reviewed by courts to ensure that they are reasonable under the circumstances of the case. Gisbrecht v. Barnhart, 535 U.S. 789 (2002). The court may, for example, look to the character of the representation, the results achieved, and whether the fee would represent a "windfall" for the attorney. Id.

In this case, Plaintiff's Counsel has demonstrated that he has spent 21 hours on this matter, which would amount to an hourly rate of \$476.19 should the Court award the requested amount of \$10,000.00 (Id.). Plaintiff's Counsel has further demonstrated that in other matters before this Court, based on his skill and experience, the Court has awarded \$540.00 per hour for representation on a contingent fee basis, such that the requested amount here is reasonable and does not represent a windfall (Id.). Defendant indicates although he cannot consent to a fee under the statute, he does not object to the reasonableness of the fee requested in the motion (Id.).

Having reviewed Plaintiff's unopposed motion and attached memorandum (doc. 25), the Court is persuaded the requested award is reasonable and satisfies the requirements of 42 U.S.C. 406(b). Accordingly the Court GRANTS Plaintiff's Motion for Attorney Fees (doc. 25), and AWARDS \$10,000.00 in attorney's fees.

SO ORDERED.

Dated: February 21, 2014

s/S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge